

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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JAMES HUMPHREY,

Plaintiff,

v.

HOLLY GUNDERSON, MR. CAHEK,  
MS. THOMPSON, DR. JOHN DOE,  
and OFFICER JOHN DOE,

Defendants.

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ORDER

23-cv-273-jdp

Plaintiff James Humphrey alleges that prison staff fabricated an allegation of drug abuse that led to the discontinuation of effective pain medication for his serious back problem. I previously granted him leave to proceed on claims against several officials involved in the events. Dkt. 9. I dismissed other defendants, including Nurse Wendy Delmer. *Id.* Humphrey has responded with what he calls a motion for reconsideration, stating additional allegations against Delmer. Dkt. 10. I will consider his new filing as a supplement to the complaint.

Humphrey now says that Delmer “is the actual nurse that stopped [him] from receiving his pain medication Gabapentin due to false and inaccurate information” even after he notified her about the false allegations about his possession of suboxone and fentanyl. *Id.* These allegations are enough to support Eighth Amendment and Wisconsin-law negligence claims against Delmer under the same theory that I am allowing him to proceed against defendant Dr. John Doe: for discontinuing Humphrey’s medication in violation of a prison policy allowing discontinuation only when there is an allegation that a prisoner is abusing his *prescribed* medication, not contraband substances. I will order the clerk of court to add Delmer back into the caption.

ORDER

IT IS ORDERED that:

1. Plaintiff James Humphrey is now GRANTED leave to proceed on Eighth Amendment and Wisconsin-law negligence claims against defendants John Doe Officer, Dr. John Doe, Mr. Cahek, Ms. Thompson, Holly Gunderson, and Wendy Delmer.
2. The clerk of court is directed to add defendant Delmer back into the caption.
3. The Wisconsin Department of Justice may have until August 18, 2023, to inform the court whether it will accept service for defendant Delmer.

Entered July 18, 2023.

BY THE COURT:

/s/

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JAMES D. PETERSON  
District Judge